

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK M.,

Plaintiff,

Case No. 23-cv-11193

Hon. Matthew F. Leitman

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

**ORDER (1) ADOPTING RECOMMENDED DISPOSITION OF REPORT
AND RECOMMENDATION (ECF No. 9) AND (2) DISMISSING
PLAINTIFF’S COMPLAINT (ECF No. 1) WITH PREJUDICE**

In this action, Plaintiff Mark M. challenges the decision to discontinue his disability benefits. (*See* Compl., ECF No. 1.) On July 25, 2023, the assigned Magistrate Judge issued an order in which she directed Mark M. to file a motion for summary judgment by no later than August 25, 2023. (*See* Order, ECF No. 5.) Mark M. did not file a motion by that date.

Based on Mark M.’s failure to file a motion for summary judgment, the Magistrate Judge issued an order to show cause in which she ordered Mark M. to “show cause in writing by September 13, 2023, why [his] case should not be dismissed for failure to prosecute under [Local Rule] 41.2.” (Order, ECF No. 8,

PageID.610.) The Magistrate Judge then warned Mark M. that his “[f]ailure to timely respond may result in a recommendation to dismiss [his] case.” (*Id.*)

Mark M. never responded to the Magistrate Judge’s show cause order. Nor has he ever filed a motion for summary judgment. Thus, on September 22, 2023, the Magistrate Judge issued a report and recommendation in which she recommended that the Court dismiss Mark. M’s Complaint with prejudice for failure to prosecute (the “R&R”). (*See* R&R, ECF No. 9.) At the conclusion of the R&R, the Magistrate Judge informed the parties that if they wanted to seek review of her recommendation, they needed to file specific objections with the Court within fourteen days. (*See id.*, PageID.616.)

Mark M. has not filed any objections to the R&R. The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). *See also Ivey v. Wilson*, 832 F.2d 950, (6th Cir. 1987) (explaining that where party fails to file “timely objections” to report and recommendation, court may accept that recommendation “without expressing any view on the merits of the magistrate’s conclusions”). In addition, the failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Accordingly, because Mark M. has not filed any objections to the R&R, **IT IS HEREBY ORDERED** that the Magistrate Judge's recommendation to dismiss his Complaint with prejudice for failure to prosecute is **ADOPTED**.

IT IS FURTHER ORDERED that Mark M.'s Complaint (ECF No. 1) is **DISMISSED WITH PREJUDICE**.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: February 2, 2024

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 2, 2024, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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